592 602 868 it occurs in subcastes as low as washermen, funeral priests and barbers, among whom all tasks are traditionally learnt from the mother's brothers. The handing on of skills in the matri-
592 602 828 lineal line goes along with the traditional belief that men of a taravad resemble each other in character, as indeed they often do. Some groups are characterized as bold, and fearless in fighting; others as cautious with money; others as good arbitrators in disputes, friendly to all men;
[827] others as unusually intelligent. Individuals are also expected to resemble their fathers (as well as their mothers) physiologically, for the Nayars are not ignorant of the male role in procreation; but character, which they prize greatly, is rightly thought to be transmitted from men to their sisters' sons.

592 602 671 It seems probable that the karanavan's powers were limited by the codification of law which came about during British rule. It is not certain whether he could traditionally alienate land without the consent of other adults of the group. During British rule he could not. British law also permitted appeal to the court by junior members for the removal of a karanavan who could be shown guilty of gross mismanagement. He could then be set aside on a pension in favour of the next younger man. An inefficient karanavan could moreover be forced by court order to maintain accounts of his income and expenditure; since 1933 in Malabar District and 1938 in Cochin all karanavans are legally obliged to do this and to make available their accounts for inspection by junior members [67] once a year. However,

592 602 671 few juniors avail themselves of this right, which is evidently repugnant to the traditional ideals of obedience and trust towards elders of the taravad.

592 602 695 421 Even traditionally, however, both junior men and women were often consulted in the management of property. If a dispute arose between segments within the group, it was common for appeal to be made to an arbitrator outside the lineage, and a settlement reached and embodied in a document called a karar, which legally bound all adult members. Such a settlement was likely in the case of a very old karanavan who decided to retire in favour of the second man. In a wealthy taravad he might then by common consent be allotted a small house and pension for the duration of his life. In desavari and naduvari taravads, karars were sometimes made to allot separate houses with lands for the maintenance of each of the old women of the group (often the karanavan's own sisters) to live on with their children and grandchildren. All lands continued to be managed by the karanavan, but he paid a sum of paddy from her allotted lands each year to the senior woman of each segment. If one sibling group in a taravad contained only brothers, a karar was sometimes made to allot to them a separate house with lands for the duration of their lives; this then reverted to the group as a whole after their deaths. Karars are however common only in village headmen's, chiefly or royal taravads: too little property is usually involved in the taravads of retainer Nayars.

592 602 Here effective management is commonly divided

2:Gough E-4, 5 (1947-1949)1961 A W11 Kerala A W11
Central Kerala Nayar

property groups were held legally responsible for Nayar men only when they committed high treason or when they became engaged in disputes and offenses within the neighborhood of their birth.

It seems probable that the kāranavan's powers over his juniors and over their property were limited by the codification of law which came about during British rule (Aiyar, 1922: 33–132). It is not clear whether he could traditionally alienate land without the consent of other adults of the taravād; during British rule he could not. British law also permitted appeal to the court by junior members for the removal of a kāranavan who could be shown guilty of gross mismanagement. He could then be set aside in favor of his immediate junior. An inefficient kāranavan could moreover be forced by the court to maintain accounts of his income and expenditure. Since 1933 in Malabar District and 1938 in Cochin, all kāranavans have been legally obliged to do this and to make available their accounts for inspection by junior members once a year, as provided in the Madras Marumakkattayam (Matriliny) Act, 1933, and the Cochin Nayar Act, 1938. However, few juniors avail themselves of this right, which is evidently repugnant to the traditional ideals of obedience and trust toward elders of the taravād.

Even traditionally, however, both junior men and women were often consulted in the management of the group's affairs. If a dispute arose between minimal segments of the taravād it was common for appeal to be made to an arbitrator of the caste from outside the lineage. The settlement agreed upon would be embodied in a document called a *kārār*, which legally bound all adult members. In large taravāds the allocation of separate houses and sometimes even of separate land to each segment was usually embodied in a kārār. All land continued to be managed by the kāranavan, but he paid a sum of paddy each year to the senior woman of each household from the land allotted to her segment.

Kārārs were, however, common only in village headmen's, chiefly, and royal property groups. Too little property was usually involved in the case of retainer Nayars, among whom effective daily management was divided between the kāranavan and the oldest woman. As we have seen, the former carried out all formal transactions outside the group, controlled the estate *in toto*, and disciplined men and boys. The latter organized feminine tasks and held more informal authority over women and small children. When the kāranavan was the son or younger brother of the eldest woman, management usually ran particularly smoothly. The oldest woman might indeed be *de facto* head

2:Gough E-4, 5 (1947-1949)1961 A Wll Kerala A Wll
Central Kerala Nayar

riage tie. Often, the particular persons who officiated as enangar did not happen to be currently having marital relations with any member of that house. This inter-group relationship of ceremonial obligation fitted the fact that particular marital ties were too transient and slender to carry the normal obligations of affinity.

Prerequisites of the Kinship System of Commoners

It is not definitely known how the institutions of group marriage and linked lineages arose among Central Kerala Nayars. In 1518 Barbosa, writing of the Nayars of Calicut, stated of group marriage: "And it is said that the kings made this law, in order that the Nayars should not be covetous and should not abandon the king's service" (Dames, 1921: 124). Similarly João de Barros wrote at about the same period: "They say that this (polyandry) is a very ancient law among them, and that it springs from the wish of a certain king to relieve the men of the burden of maintaining sons, and leave them ready for warlike service whensoever the king calls upon them" (*ibid.*: 241). Whether or not group marriage was instituted by a particular royal edict, we know that once it had begun it was enforceable by the laws of the Central kingdoms. Thus, according to at least one authority, a chief could compel a woman to receive as marital partners any of her enangar who wished to visit her (K. Kannan Nair, 1908: 186). The rights and duties of enangar in the administration of caste law were also sanctioned by the chief and, ultimately, by the king.

Considerable literary evidence suggests that a form of group marriage similar to that of Central Kerala existed among Nayars in at least some of the chiefdoms of the kingdom of Travancore in Southern Kerala. K. M. Panikkar, it is true, has argued that Travancore Nayar women were never polyandrous (1918: 270–271). Other Malabari writers, however, responding to Panikkar's statement, have argued convincingly that they were (Aiyappan, 1932*a*, 1932*b*, 1934; Iyer, 1932). K. P. Padmanabha Menon, in particular, supports the view that traditionally Nayar women in both Central and Southern Kerala were "held in common, every woman belonging to all the members of the tribe, and resistance to any of them was severely punished." In support he quotes two early statements concerning the chiefdom of Venmani, with its capital of Kartigapally, in North Travancore. Thus the Portuguese Archbishop Menezes in the mid-sixteenth century reported that "the king of Kartigapally enacted that in his kingdom any Nair was at liberty to be free with any woman of the caste high or low, and that he could kill a woman, with impunity, if she refuses

3:Gough E-4, 5 (1947-1949)1961 AWll Kerala AWll
North Kerala Nayar

the wife's taravād was near his own he might divide his time between his own ancestral house and the private house he had built for his wife and her descendants on her ancestral estate.

Although this was contrary to customary law, some men also managed to give jenmam land outright to a wife and her matrilineal descendants, thus founding a new branch taravād through the wife. This practice greatly increased in the nineteenth century, when new gardens were continually being developed on former waste land and when land became freely marketable. In 1896, indeed, a law was finally passed enabling a man's wife and children to inherit half of his self-acquired intestate property (Malabar Marriage Act, 1896). Occasional gifts of land to the wife and her descendants were, however, known long before the British period, although they were against the law. At the political level, kings and chiefs occasionally gave large domains, together with the office of chief or village headman, to their wives' matrilineal descendants. The chiefships of both Nileswaram and Kadattunad are said to have been formed in this way by gifts from Kolattiri kings before the fourteenth century; both later became virtually independent kingdoms (Logan, 1951, I: 343; Ayyar, 1938: 4). Many smaller territories and political offices were similarly bequeathed during the period of European trade. On a smaller scale, the kāranavan of a Nambiar taravād sometimes managed to take out a portion of the fallow jenmam land of his own taravād, cultivate it, and give it to his wife and her descendants. Naturally, such gifts, which were in no sense a part of acknowledged lawful custom, led to disputes with the donor's matrilineal kin and sometimes, in the next generation, to feuds between lineages.

Gifts of land or improvements by a man to his wife's descendants led to the existence of branch property groups, called *tāvari-taravāds*, within the main property group. After the donor's death the wife's kāranavan might manage such a small estate on behalf of her branch, retaining the income separately for her and her children. More commonly, the donor's eldest son became the kāranavan of the tāvari property, while the branch also continued to receive its ancestral dues out of the property of the taravād as a whole. When a stirpital division of the whole taravād occurred, this branch might claim both its separate estate and its share of the ancestral property. If the donor had been a chief and the gift was large, the branch to which it was given might, however, choose to leave its taravād without taking a share of the ancestral estate and to found a new taravād home on its new land. Tāvari-taravāds were, however, rare among commoners

6:Fawcett G-5 (ca. 1900)1915
AWll Kerala AWll
Nayar

The times have changed things a little: a little only because after all the change is on the surface: it is not radical. Now-a-days, when there is a penal code to deal with persons who kill others, the Nâyar cannot keep a concubine of a caste (not a clan) lower than his own without fear of social ex-communication. The killing, except perhaps now and then *sub rosâ*, is a thing of the past.

The custom which permits the woman to cohabit with a man, her equal or superior in caste, has been alluded to more than once. I will now make some use of the (Government) Report of the Malabar Marriage Commission, published in 1894, which contains much information which is extremely valuable to the anthropologist and the folklorist, and none the worse for being found together with views and opinions with which he cannot agree. One of the points to which the Commission directed special attention was "as to the customs connected with Hindu marriages in Malabar" and the evidence collected respecting these may be accepted as correct, and the delineation of existing custom may be taken as authoritative. Now the custom which permits the man to cohabit with a woman lower in the social scale than himself prohibits the woman from exercising the same liberty. "This is called the rule of *Anulómam* and *Pratilómam*. Dr. Gundert derives *Anulómam* from *anu* = with + *lómam* = *rómam* = the hair: going with the hair or grain. So *Pratilómam* means "going against the hair or grain." According to this usage a Nâyar woman, consorting with a man of a higher caste follows the hair, purifies the blood, and raises the progeny in social estimation. By cohabitation with a man of a lower division (clan) or caste, she is guily of *Pratilómam*; and, if the difference of caste were admittedly great, she would be turned out of her family to prevent the whole family being boycotted."

A corollary of this custom is that a Nambûtiri Brâhman father cannot touch his own children by his Nâyar consort without bathing afterwards to remove the pollution. The children in the Marumakkattâyam family belong, of course, to their mother's family, clan, caste. They are Nâyars, not Nambûtiris; so the Nambûtiri cannot touch them without pollution.

The rule of *Anulómam* and *Pratilómam* appears to be observed with the utmost strictness and thoroughness; one finds it obtaining between members of the same clan inhabiting different parts of the country. Mention of this

9:Iyer E-4, 5 (ca. 1902-1906) 1912
AWll Kerala AWll
Nayar

643 646

rights. Thus did these *kúttams* (assemblies) exercise a wholesome influence, and act as a powerful check upon the rulers and ministers of the middle ages.[1] They also dealt with wider questions of castes and other matters affecting the welfare of the people. In former times there were also minor councils 623 of *Pramánis* or leaders of the people in every *Desam* exercising similar social functions. A survival of this system even now exists in every village, and their deliberations and decisions upon social matters and caste disputes have great weight. In important matters such as the outcasting of a member of the caste, etc., His Highness the Raja who has always been the [643] social as well as the political head of the State would deliberate [692] upon them with the help of the Brahman *vaidiks*, and his decisions become final. The individual who is placed under a ban [688] is prohibited from entering any temple, bathing in the public tanks, and is, in short, ostracised.

643

Administration of justice.

The Rajas were in former times the fountain of all justice, but were assisted by *Karyakkars* or ministers 642 and Brahmans in administering it. All caste 623 disputes and offences were left to the caste assemblies to deal 681 with, while civil disputes were either left to the arbitration of the caste assemblies or of three or four prominent men. There 564 was no written code, but the punishments assigned by custom [671] fitted the crimes, and they varied with the status of the caste and of the person. The nobles enjoyed the privilege of freedom from confinement. The Brahmans and women were never put to death; the former were punished for grave offences by loss of caste and banishment, and the latter by being sold as slaves. The punishment of death was reserved for such heinous [688] offences as sacrilege, the wilful murder of a Brahman or a cow. The following is a summary of the account given by 175 Duarte Barbosa, pp. 116—117, regarding the methods of dealing 564 with criminals and the nature of the punishments inflicted on 685 them in former times:—When any member of a low caste committed robbery about which a complaint had been made to the king or the governor, orders were issued for his apprehension, and if he was caught and he confessed his guilt, he was generally impaled. His head was severed, and the body being placed on its back, the arms and legs were fastened with ropes to four posts, while the multitude to show their contempt spat upon it. If, however, the malefactor was a Moor, he was beheaded. The

1. Letters from Malabar by J. C. Visscher, pages 76-77.

12:Peter E-5 (1939, 1949) 1963 AWll Kerala AWll

177 595 Because of the profound cultural changes which have fundamentally modified the social and economic structure of Kerala society, it can be said that polyandry is on the decline in that part of the world. Circumstances no longer favour the marriage of many men to one woman, and the custom is not only being abandoned as useless, but those who, by tradition, should follow it, look upon it with abhorrence and with growing disgust. To those who have practised it so long, as something good and moral, it has become, nowadays, something barbarous, primitive an unworthy of them: times have changed and it simply is not done any longer.

ADDENDUM

●671 *Act XVII of 1115, the Cochin Makkathayam Thiyya Act, passed by His Highness the Maharaja of Cochin on the 18th day of Kumbham 1115, corresponding to the 1st day of March 1940.*

C.V. Iyyu, former Member of the legislative Assembly of Cochin State, told me on the 27th of October, 1949, that he was on the Commission which in 1937-38 drafted the Cochin *Makkathayam* Thiyya Act of 1940. The majority of the members of the Commission were Tiyas (Thiyyas) and the initiative of the enactment was due to V. K. Krishnan Kutti, M.L.A., *wakil* of Trichur, himself a Tiya. The Act is thus a Tiya legislative reform and not a foreign one. This would explain the fact that it is observed. I hear that the idea is a result of the education and progress of the Tiya community, which now ranks as one of the most accomplished in Kerala.

Some of the main provisions of the Act are given here below. They are those that concern definition of the name Thiyya, of an heir's sex in doubtful cases, acceptable forms of the marriage solemnity, prohibition of polyandry (art. 12), succession both testamentary and intestate:

Chapter I. Five articles.

[101 569 938] Art. 5, (i): "Thiyya includes Ezhuva, Chova, Billava, Marayan, Thandan and others recognized as such." It adds: "When owing to any physical defect or deformity, it is not possible to ascertain the sex of any of the heirs of an intestate, such heirs shall, for the purpose of this Act, be regarded as female."

[585] Chapter II. Marriage and its Dissolution. Thirteen articles.

Art. 6: "Conjugal union may be openly solemnized in any of the following ways:

a) by the tying of the Mangalya Sutram
b) by the presentation of cloth to the female by the male
c) by exchange of rings
d) by mutual garlanding, and

12:Peter E-5 (1939, 1949)1963 AWll Kerala AWll

671 [585]

e) by mutual consent evidenced by a registered instrument attested by not less than two witnesses."

Art. 12: "A polyandrous marriage performed after this Act shall be void." [595]

Chapter III. Maintenance and Guardianship. Three articles.

Chapter IV. Succession.

Five articles on testamentary succession.

671 428

Art. 26: "For the purpose of succession there is no distinction between the self-acquired property and the ancestral property or between the property of a male and that of a female except as otherwise provided by this Act."

Eight articles on Intestate succession.

Art. 28: "Property in respect of which a Thiyya has died intestate devolves upon the wife or husband or upon those who are of the kindred of the deceased in this order and according to the rules herein prescribed."

Art. 29: "When the intestate had left more than one widow, the distribution of inheritance referred to in sections 30, 31, 32 and 33 shall be made as if there is only one widow, all the widows together taking equally one widow's share."

Art. 30. "When the intestate has left a widow, if he has also left a son, or lineal descendant of a son, a share equal to that of a son shall belong to the widow."

Eleven articles on distribution of intestate's property.

Art. 39, (b): "If some of them (lineal descendants) are his (the intestate) sons and others are his daughters, each daughter shall take a half of the share of a son if the intestate is a male, and if the intestate is a female all children shall take equally."

It should be remembered that this legislation is that of a former princely state which has ceased to exist as a separate unit. Today, since the coming into being of the State of Kerala, made up of Malabar, Mahe, Cochin and Travancore, this Act has been superseded by the provisions of the India Code in force now in the whole of the Indian Republic. In accordance with the stipulations of the Code, a larger share of inheritance is granted to daughters and widow than was formerly allowed by the Cochin *Makkathayam* Thiyya Act. [648]

[PP 240-579 not Processed]

796 In some families, after
526 the meal is over, dancing and games of various kinds
535 are carried on, which contribute to the enhancement of
[524] the pleasantries incidental to the festival. As on other prominent occasions, card-playing and other games are also resorted to."

264 On the subject of religion, Mr. Fawcett writes as
515 follows. "No Nāyar, unless one utterly degraded by the exigencies of a Government office, would eat his
782 food without having bathed and changed his cloth. It
783 is a rule seldom broken that every Nāyar goes to the
[512] temple to pray at least once a day after having bathed;
[564] generally twice a day. The mere approach anywhere near his vicinity of a Cheruman, a Pulayan, or any inferior being, even a Tiyan, as he walks to his house from the temple, cleansed in body and mind, his marks newly set on his forehead with sandal-wood paste, is pollution, and he must turn and bathe again ere he
[683] can enter his house and eat. Buchanan tells us that in his time, about a century ago, the man of inferior caste thus approaching a Nāyar would be cut down instantly
[656] with a sword; there would be no words. Now that
[671] the people of India are inconvenienced with an Arms Act which inhibits sword play of this kind, and with a
[178] law system under which high and low are rated alike, the Nāyar has to content himself with an imperious grunt-like shout for the way to be cleared for him as he stalks on imperturbed. His arrogance is not diminished, but he cannot now show it in quite the same way.

796 "I will attempt a description of the ceremonial
[773] observed at the Pishāri kāvu—the Pishāri temple near Quilandy on the coast 15 miles north of Calicut, where Bhagavati is supposed in vague legend to have slain an Āsura or gigantic ogre, in commemoration of which